

*Rakoff, J*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

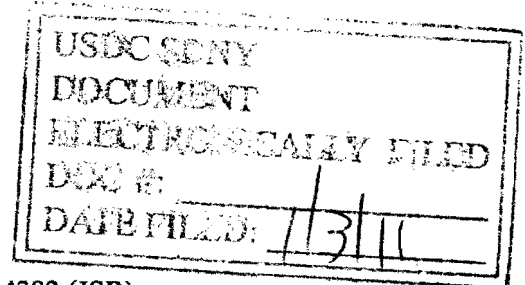
23-34 94th St. Grocery Corp., *et al.*,

Plaintiffs,

v.

New York City Board of Health, *et al.*,

Defendants.



10 CV 4392 (JSR)

**STIPULATION REGARDING STAY OF ENFORCEMENT**

**WHEREAS** Plaintiffs have brought this suit challenging New York City Health Code Article 181.19 ("Resolution § 181.19" or "the Resolution"), a Resolution adopted by the New York City Board of Health (the "Board") that requires all sellers of tobacco products in New York City prominently to display certain signs concerning the health risks of smoking; and

**WHEREAS** Plaintiffs have moved to enjoin preliminarily the enforcement of the Resolution; Defendants have cross-moved for summary judgment; and both motions have been fully briefed and argued; and

**WHEREAS** the parties previously had stipulated to a stay of enforcement of the Resolution, to expire on the earlier of (a) fourteen days after the Court's ruling on Plaintiffs' motion for a preliminary injunction or (b) January 1, 2011, and the Court had so ordered the stipulation.

In order to extend for one month the duration of the prior agreed stay and to provide additional time for resolving these motions without prejudicing Plaintiffs' rights,

**IT IS HEREBY STIPULATED AND AGREED** by and between the undersigned counsel for the parties hereto that:

1. Enforcement of the Resolution shall be stayed until the earlier of either  
(a) fourteen (14) days after the Court's ruling on Plaintiffs' motion for a preliminary injunction  
or (b) February 1, 2011.

2. While this stay is in effect, neither the Defendants, nor any of the employees or  
authorized agents of any of the Defendants, will take any action to enforce violations of this  
Resolution.

3. The Defendants and the City of New York shall not make use of or refer to for  
any purpose in any legal or administrative proceeding of any kind the fact that, while this stay  
was in effect, any person or entity failed to post the signs required by the Resolution.

Nothing in this Stipulation shall be construed by any of the parties hereto to constitute a  
waiver of any legal or factual arguments that may be asserted in this action.

Dated: New York, New York  
December 28, 2010

MICHAEL A. CARDOZO  
Corporation Counsel of the City of New York  
Attorney for Defendants  
100 Church Street  
New York, NY 10007  
(212) 788-0708

By:

  
\_\_\_\_\_  
Nicholas R. Ciappetta (NC 1014)

By: Floyd Abrams  
Floyd Abrams (FA 0902)  
Joel Kurtzberg (JK 1552)  
Kayvan Sadeghi (KS 7463)  
CAHILL GORDON & REINDEL LLP  
80 Pine Street  
New York, New York 10005  
(212) 701-3120  
fabrams@cahill.com  
jkurtzberg@cahill.com  
ksadeghi@cahill.com

*Counsel for Plaintiffs 23-34 94th  
Street Grocery Corp., Kissena Blvd.  
Convenience Store, Inc., New York  
Association of Convenience Stores,  
and New York State Association of  
Service Stations and Repair Shops,  
Inc.*

By: Noel J. Francisco  
Noel J. Francisco \*  
JONES DAY  
51 Louisiana Avenue, N.W.  
Washington, D.C. 20001  
(202) 879-3939  
njfrancisco@jonesday.com  
\*admitted pro hac vice

D. Theodore Rave (DR 1979)  
JONES DAY  
222 East 41st Street  
New York, New York 10017  
(212) 326-3939  
drave@jonesday.com

*Counsel for Plaintiff R.J. Reynolds  
Tobacco Co.*

GIBSON, DUNN & CRUTCHER LLP

By: Michael J. Edney  
Miguel A. Estrada (ME 4227)  
Michael J. Edney \*  
Brian D. Boone \*  
\*admitted pro hac vice  
1050 Connecticut Avenue, N.W.  
Washington, D.C. 20036  
(202) 955-8500  
mestrada@gibsondunn.com  
medney@gibsondunn.com  
bboone@gibsondunn.com

Jennifer H. Rearden (JR 2552)  
200 Park Avenue  
New York, New York 10166  
Telephone: (212) 351-4000  
jrearden@gibsondunn.com

*Counsel for Plaintiff Philip Morris  
USA Inc.*

By: Alan Mansfield  
Alan Mansfield (AM 3266)  
Stephen L. Saxl (SS 1028)  
GREENBERG TRAURIG, LLP  
200 Park Avenue  
New York, New York 10166  
(212) 801-9200  
mansfielda@gtlaw.com  
saxls@gtlaw.com

*Counsel for Plaintiff Lorillard  
Tobacco Company*

Denied as moot.  
IT IS SO ORDERED

Jed S. Rakoff  
The Honorable Jed S. Rakoff